United Nations A/HRC/WG.6/29/BDI/1

General Assembly

Distr.: General
13 November 2017
English
Original: French

Human Rights Council
Working Group on the Universal Periodic Review
Twenty-ninth session
15–26 January 2018

National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*

Burundi

* The present document has been reproduced as received. Its content does not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations.

GE.17-[illegible] (E) [illegible]

Please recycle

Introduction

1. Universal periodic review is a United Nations mechanism to review the human rights situation in each Member State. The first cycle began in 2008 and the second in 2013. All Member States of the United Nations, including Burundi, have participated in this exercise by submitting a report on the human rights situation. This is the third such report.

2. It is the result of tireless research work by the members of the Standing Committee responsible for drafting initial and periodic reports, who were appointed by Order of the Minister of Human Rights No. 225/177 of 3 February 2016.

3. It is also evidence of the Government's wish to honour the commitments it has made, in accordance with the recommendations resulting from the second cycle of the universal periodic review.

I. Background information

A. Burundi

4. Burundi is an East African country with an area of 27,834 km^2, of which 22,950 km^2 are dry land. It is a landlocked country but lies on Lake Tanganyika (32,600 km^2, of which 2,634 km^2 belong to Burundi) in the eastern extension of the Great Rift Valley. Rwanda lies to the north, Tanzania to the south and east, and the Democratic Republic of the Congo to the west.

5. The last General Census of Population and Housing in 2008 (Census, 2008) found it to have a population of 8,053,574, 51 per cent female and 49 per cent male. The annual rate of population increase is 2.4 per cent and average household size is 4.7 persons. The population of Burundi is characterized by extreme youth: according to the age pyramid, young people and children account for more than 60 per cent of the population. Population density was 310 inhabitants per km^2.

6. According to the projections of the Burundi Institute of Statistics and Economic Studies, taking into account the results of the aforementioned census, the population of Burundi is currently estimated at 10,114,505 inhabitants,[1] with a population density of 379 inhabitants per km^2.

7. The population is unequally distributed across the country, with an imbalance between provinces varying from 116.5 inhabitants per km^2 in Cankuzo province to 474.7 in Kayanza province. According to the same source, only 10 per cent of the population live in an urban environment. Bujumbura, the capital, is the largest town.

8. According to the National Strategy of 2013, the economy of Burundi is directly dependent upon the agricultural sector, the annual increase in production of which remains very low (2 per cent) compared with population growth (2.4 per cent). A major challenge for the agricultural sector is that economic growth will have to reach 9 per cent if it is to meet the food needs of the population.

9. From a macroeconomic point of view, a report on the Burundi economy in 2010 shows that agriculture contributes 43 per cent of gross domestic product (GDP), the secondary sector 16 per cent, the tertiary sector 35 per cent and taxation 6 per cent.

10. The administrative organization of Burundi has three levels: the provinces, the communes and the hill districts. The national language is Kirundi. The official languages are Kirundi and other languages determined by law.[2] The national currency is the Burundi franc (F Bu).

11. The principle of the separation of powers is guaranteed by the Constitution. The executive, legislative and judicial branches are independent of each other.

12. The Burundi electoral system is one of universal, equal, secret, free and transparent suffrage. It may be direct or indirect in the conditions provided for by law. The electoral

process of 2015 saw the organization of communal, legislative, senatorial, presidential and hill district elections. The outcome of these elections resulted in women accounting for 36.4 per cent of members of the National Assembly, 41.8 per cent of the Senate, 32.7 per cent at the communal level and 17.1 per cent of hill district councils.

B. Methodology

13. The 3rd cycle universal periodic review report was drafted by the members of the Standing Committee responsible for drafting initial and periodic reports.

14. The production of this report followed successive phases of documentary research, consultation of state and non-state actors working in the human rights field, processing the information gathered, and organizing pre-approval and national approval sessions.

15. The Independent National Human Rights Commission (CNIDH) and civil society were involved and made contributions.

C. Legal and institutional framework

1. Legal framework

16. With regard to legislation, several Acts on the promotion and protection of human rights have been promulgated since 2013. These include: Act No. 1/10 of 3 April 2013 amending the Code of Criminal Procedure; Act No. 1/28 of 5 December 2013 regulating public meetings and demonstrations; Act No. 1/18 of 15 May 2014 on the establishment, terms of reference, composition, organization and functioning of the Truth and Reconciliation Commission; Act No. 1/56 of 4 June 2014 on the electoral code; Act No. 1/26 of 15 September 2014 establishing the Special Land and Property Court and setting out its terms of reference, composition, organization and functioning; Act No. 1/22 of 25 July 2014 regulating the direct action of the State and the communes against their agents and officers for commission of a fault for which the State or commune is liable; Act No. 1/28 of 29 October 2014 on the prevention and punishment of trafficking in persons and protection of its victims; Act No. 1/33 of 28 November 2014 amending Act No. 1/12 of 20 April 2010 organizing the Communal Administration (Communal Entity); Act No. 1/35 of 31 December 2014 on a legal framework for religious confessions; Act No. 1/15 of 9 May 2015 regulating the press in Burundi; Act No. 1/04 of 27 June 2016 on the protection of victims, witnesses and other persons at risk; Act No. 1/13 of 22 September 2016 on the prevention and punishment of gender-based violence and protection of its victims; and Act No. 1/02 of 27 January 2017 on a legal framework for non-profit organizations.

2. Institutional framework

17. There are already institutions to protect and promote human rights, notably the Independent National Human Rights Commission, the National Communication Council (CNC), the office of the Ombudsman, the National Land and Property Commission (CNTB), the courts and tribunals, the Anti-Corruption Brigade, the Anti-Corruption Court and the State General Inspectorate.

18. An institutional framework favourable to respect of human rights has been strengthened since 2013. Particularly of note are: the establishment of the Truth and Reconciliation Commission by Act No. 1/18 of 15 May 2014; the establishment of the National Commission for Dialogue among Burundians (CNDI) by Decree No. 100/34 of 23 September 2015; and the establishment of the General Inspectorate of the Ministry of Human Rights, Social Affairs and Gender, and the Special Land and Property Court.

D. Ratification of international legal instruments and submission of reports

19. Burundi has made significant progress in this regard. It has ratified conventions and protocols recommended by the Human Rights Council during the universal periodic review

of 2013, notably the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto by Act No. 1/07 of 26 March 2014, and the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in September 2013.

20. The following reports have been submitted: the second periodic report on the International Covenant on Civil and Political Rights; the second periodic report on the International Covenant on Economic, Social and Cultural Rights; and, compiled in a single document, the fifth and sixth periodic reports on the Convention on the Elimination of All Forms of Discrimination against Women.

II. Promotion and protection of human rights

A. Civil and political rights

1. Right to equitable justice

21. The International Covenant on Civil and Political Rights and other similar international instruments play a considerable role in promoting equitable justice. Burundi has already transposed the relevant provisions of the instruments ratified into domestic law (article 19 of the Constitution).

22. Under article 205 of the Constitution, justice is administered by the courts and tribunals in the name of the Burundian people. Article 38 of the Constitution provides similarly and stipulates that everyone has the right to have their case heard fairly and decided within a reasonable time. Other constitutional provisions enshrine: the principle of equality before the law and the prohibition on any form of discrimination (art. 22); the principle of legality (art. 41); the presumption of innocence (art. 40); the duty of judges to give reasons for their decisions (art. 207); independence of the judicial branch from the executive and legislative branches (art. 209); the Supreme Court guarantees correct application of the law by the courts and tribunals (art. 221); and the principle that both parties should be heard and respect of the rights of the defence (art. 39, para. 3). These constitutional guarantees have been strengthened by the promulgation of Act No. 1/10 of 3 April 2013 amending the Code of Criminal Procedure. Thus, the rights of the defence (art. 95) and the right not to incriminate oneself or admit guilt (art. 74) are protected. A specific procedure of confession and guilty plea was introduced (arts. 244 to 252). Furthermore, any organization working in the human rights field that has at least three years' professional experience may report sexual violence or any intentional attempt on life or bodily harm to the prosecuting authorities in place of the victim (art. 64). The Code of Criminal Procedure of 2013, also introduced a specific justice system for juveniles in conflict with the law (arts. 222 to 243). Similarly, juvenile rehabilitation centres have been established and financial resources allocated to them.

23. A national strategy of legal aid has been adopted for vulnerable persons; a user guide to the public justice service has been approved and a budget line for legal aid funds adopted.

24. The sectoral policy of the Ministry of Justice has three strategic priorities: an independent judicial system, justice for all and criminal justice that respects human rights. Its vision is to stimulate in Burundi the strengthening of an equitable, modernized and independent justice system accessible to all. This vision guaranteeing the individual right to equitable justice is based upon seven guiding principles: the independence of judges; access to justice; equality before the law; respect of the rights of the defence; collaboration and cooperation; strengthened human capital; and the promotion of information and communication technologies.

2. Right to life

25. With regard to legislation, article 24 of the Constitution of the Republic of Burundi stipulates that "Every woman and every man has the right to life". Articles 195 to 241 of the Criminal Code in force criminalize all acts that violate the right to life. Through Act No.

1/10 of 3 April 2013 amending the Code of Criminal Procedure, Burundi introduced special procedures to prosecute and swiftly punish perpetrators of various offences, including those violating the right to life. This is in particular the case of the special procedure followed in the investigation and trial of cases where the perpetrator has been or is said to have been caught in the act (arts. 209 to 221).

26. Despite the efforts made to protect the right to individual life, Burundi still faces challenges connected with persistent violence, especially since 2015, when lives were lost in the country. Some perpetrators have been identified, prosecuted and convicted, others are still being sought. Now that the situation is under control, there are other isolated cases of violations of the right to life and the Government is striving to find the presumed perpetrators.

3. Freedom of association, assembly, expression and opinion

(a) Legal and regulatory framework

27. Articles 31 and 32 of the Constitution guarantee the fundamental rights of the individual and the citizen. In application of the Constitution, other laws and regulations have been put in place, including: Act No. 1/02 of 27 January 2017 on a legal framework for non-profit organizations; Act No. 1/15 of 9 May 2015 regulating the press in Burundi; Act No. 1/35 of 31 December 2014 on a legal framework for religious confessions; Act No. 1/28 of 5 December 2013 regulating demonstrations on public roads and public meetings; and Ministerial Order No. 530/2181 of 8 December 2016 on the implementation measures of Act No. 1/35 of 31 December 2014 on a legal framework for religious confessions.

(b) Current situation

28. With regard to political parties, two former parties merged to form a new political formation in May 2017. However, seven political parties were suspended by Ministerial Order No. 530-1068 of 18 July 2017 for failure to comply with the law on political parties.

29. Between 2013 and July 2017, the Ministry of interior and Patriotic Training approved 1,761 non-profit organizations and 15 religious confessions governed by the new Act.

30. With regard to the Legal Framework for Foreign Non-Governmental Organizations, since 2013, the Ministry of Interior and Patriotic Training has, in consultation with the Ministry of Foreign Relations and International Cooperation, registered 53 new organizations. Thirty-eight unions have also been approved by the Ministry of the Civil Service, Labour and Employment.

31. In addition, of the five radio stations closed after the attempted coup of May 2015, two have been authorized to begin broadcasting again. Thus, the National Communication Council has authorized nine local and six community radio stations to broadcast.

4. Prohibition of torture

32. Burundi prohibits torture through a series of domestic legislative measures. Efforts have been made to subscribe to international instruments against torture, not forgetting the capacity-building of those working on prevention, victim support and the punishment of acts of torture.

In domestic law

33. After proclaiming the right to freedom of every woman and man, the Burundian Constitution outlaws the torture, cruel, inhuman or degrading treatment or punishment of any human being (art. 25).

34. The Criminal Code, which was amended on 22 April 2009, makes torture an offence (art. 204). The penalties for torture are among the heaviest there are. Depending on the circumstances, they vary from 10 years' penal servitude to life imprisonment (arts. 205–207). These sentences are irreducible and may be accompanied by other penalties (art. 209).

35. The Code of Criminal Procedure of 3 April 2013 renders the State liable in full for harm resulting from torture committed by agents of the State in the performance of their duties (art. 289). In cases where the State compensates a victim of torture it may sue the agent who has committed torture and any accomplices (art. 290). The same Act extends the right to apply to join the proceedings as a civil party to any legally approved organization the purpose of which is to combat sexual violence or any other intentional infringement of life and bodily harm (and, by implication, torture).

36. The action of the State against an agent or officer for commission of a fault is now governed by Act No. 1/22 of 25 July 2014 regulating the direct action of the State and the communes against their agents and officers for commission of a fault for which the State or commune is liable. All this legal protection demonstrates the determination of the Government to tackle the impunity of persons responsible for acts of torture.

37. At the international level, Burundi, already a party to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, ratified the Optional Protocol thereto in September 2013.

38. Regarding strengthening the capacities of those working on the prevention and punishment of torture, Burundi has continued its efforts in the field of training judges and police officers. These efforts are unfortunately hampered at present by the withdrawal of some of Burundi's traditional technical and financial partners.

5. Combating gender-based violence

(a) Legal and regulatory framework

39. Equality between men and women is in principle enshrined in article 13 of the Constitution of the Republic of Burundi, which provides: "All Burundians are equal in merit and in dignity. All citizens enjoy the same rights and have the right to the same protection of the law. No Burundian shall be excluded from the social, economic or political life of the nation on the grounds of race, language, religion, sex or ethnic origin." Similarly, article 22 of the Constitution provides that "All citizens are equal before the law, which guarantees them legal protection. No one may be the object of discrimination because of their origin, race, ethnicity, sex, colour, language, social situation, religious, philosophical or political convictions or on grounds of a physical or mental disability or of carrying HIV/AIDS or any other incurable disease."

40. To make these principles effective, Burundi has put in place Act No. 1/13 of 22 September 2013 on the prevention and punishment of gender-based violence and protection of its victims.

(b) Institutional framework

41. The establishment of gender units in the various ministries demonstrates the Government's will to combat this scourge. The Government has also established special court chambers for juveniles and gender-based violence.[3]

42. In the framework of the Great Lakes Emergency Sexual and Gender-Based Violence and Women's Health plan, three integrated gender-based violence centres have been established at the hospitals of Cibitoke, Makamba and Muyinga. They have been operational since 20 February 2017.

(c) Operational framework

43. Burundi has continued to implement the National Action Plan on Resolution 1325 (2012–2016) and the National Gender Policy Action Plan 2012–2016. These action plans, currently being updated, aim to: raise the awareness of all stakeholders of the imperatives of preventing the effects of conflicts on women and girls; protect women and girls from gender-based violence and its many consequences; promote the participation of women and girls in decision-making bodies on the consolidation of peace and economic recovery; and promote the rights of women and girls.

44. Capacity-building has been organized for the various actors involved in combating gender-based violence. Awareness-raising, training and information sessions have been held for civil society organizations working in this field, opinion leaders, community health workers and other health service providers, those working in family and community development centres,[4] members of organizations, students, teachers, police officers, judges, prisoners, etc.

Cases of gender-based violence handled by the Special Chamber for Juveniles and Victims of Gender-Based Violence in Burundi between 2013 and May 2017

Year	*Cases*
2014	279
2015	225
2016	141
2017	32

Source: Reports of the Directorate General of Police.

B. Economic, social and cultural rights

1. Right to education

45. The right to education is recognized by article 53 of the Burundian Constitution. In application of the Constitution, Burundi has developed policies, strategies, legislation, programmes and plans to promote access to education for all. In order to do so, Burundi has put in place an education policy the objective of which is universal access to basic schooling. This policy introduced a reform of basic education, in which the primary phase has increased from six to nine years. The effect was a more than 28 per cent increase in pupils in the sixth year of basic education between 2010 and 2015.

46. The objective of the Government is gradually to admit all children as it builds the necessary capacities to do so. Some of the children who have not been able to access the seventh year of basic education will receive training in a vocational training centre. The table below shows the numbers in basic education.

(a) Numbers in basic education

Overall data for basic education 2013–2016

School year 2013/14

			Pupils	
Type of school	*Number of schools*	*Number of classes*	*F*	*M*
Public/State	2 642	19 307	709 244	693 845
Public under contract	1 153	9 929	348 447	336 429
Private	116	836	14 598	14 592
Consular	2	10	309	333
Total	**3 913**	**30 082**	**1 072 598**	**1 045 199**

School year 2014/15

			Pupils	
Type of school	*Number of schools*	*Number of classes*	*F*	*M*
Public/State	2 633	19 653	726 157	712 104
Public under contract	1 256	10 768	370 234	357 827
Private	144	1 012	18 145	17 608
Consular	2	13	408	349
Total	**4 035**	**31 446**	**1 114 944**	**1 087 888**

School year 2015/16

			Pupils	
Type of school	*Number of schools*	*Number of classes*	*F*	*M*
Public/State	2 668	19 947	762 661	748 462
Public under contract	1 284	11 000	386 891	373 823
Private	186	1 385	20 872	20 493
Consular	3	25	727	682
Total	**4 141**	**32 357**	**1 171 151**	**1 143 460**

Source: Ministry of Education Statistics Office.

(b) Girls' education

47. Regarding girls' education, Burundi is making efforts to eliminate the discrimination connected with traditional attitudes. These efforts include the following: adoption of the gender equity in education strategy in 2012, accompanied by a regularly monitored action plan 2012-2020 to promote girls' education; abolition of school fees in basic education; and continuing to coordinate and finance initiatives aimed at promoting the education of girls and women through the United Nations Girls' Education Initiative (UNGEI). These initiatives aim in particular to raise parental awareness and set up UNGEI committees at provincial and communal levels to identify girls who do not go to school or have dropped out and to enrol them in school.

48. Thanks to these initiatives, in the school year 2014/15, the gross enrolment ratio rose to 133.4 per cent for girls and 135.4 per cent for boys. In the same year, the net enrolment ratio was 93.9 per cent for girls, compared with 94.9 per cent for boys. The national gender parity indicator is primary education rose to 1.05 in 2015.[5]

2. Right to health

49. Since health is a legal right under article 55 of the Constitution, the Government of Burundi, through the national health policy 2016–2025, has made a firm commitment constantly to improve the state of health of the population. The policy is the sole national 10-year reference for all those working and all interventions in the health sector in Burundi and is therefore the reference for the development of two national health plans, 2016–2020 and 2021–2025.

50. The health of the Burundian population remains relatively poor, however.[6] The crude death rate is 15 per 1,000 (Census, 2008) and life expectancy is 56 years.[7] The maternal mortality ratio is high, at between 500[8] and 740[9] deaths per 100,000 live births. The neonatal mortality rate is also high, at 36 deaths[10] per 1,000 live births, which alone accounts for 43 per cent[11] of all deaths of children under 5 years. Malnutrition is endemic and severely affects children under 5, some 63 per cent of whom suffer from chronic malnutrition (-2 SD).[12]

51. This situation is connected with several factors. First, to the significant weight of the determinants of health (household poverty, the population explosion, nutrition, the environment, gender, social inequalities, etc.). Second, the poor health system, the burden of transmissible and non-transmissible diseases, and the vulnerability of mothers, newborns, children, adolescents and the elderly. A table of the main health indicators in Burundi is annexed to this report.

3. Right to work

52. Article 54 of the Constitution of the Republic of Burundi recognizes the right to work to all citizens.

53. Reforms have been introduced to promote employment. Some progress can be noted, such as: the development of the National Employment Policy, adopted on 12 November 2014; the establishment of the Burundi Employment and Manpower Office (OBEM); the establishment of the National Social Dialogue Committee (CNDS); the development of the National Plan of Action to Combat the Worst Forms of Child Labour; implementation of the National Administrative Reform Policy; and the establishment of a youth employment fund.

4. Right to housing

54. The Government of Burundi has introduced the housing and urbanization policy, which provides a coherent basis for the villagization policy. The latter has the following objectives: to gather rural populations into modern villages; to free up cultivable land; to improve the conditions of low-income citizens; to guarantee improved access to basic infrastructure, including housing; and to safeguard the environment and improve rural housing. This policy was introduced in 2011 and during its first phase aims to build 100 villages, i.e. 25 per year.

C. Rights of particular groups

1. Individual rights of women

(a) Legal framework

55. The Constitution of the Republic of Burundi guarantees non-discrimination in the aforementioned article 22, and in article 13, which provides that "All citizens enjoy the same rights and have the right to the same protection of the law. No Burundian may be excluded from the social, economic or political life of the nation on the grounds of race, language, religion, sex or ethnic origin." The Constitution reserves a minimum of 30 per cent of elective posts for women, while the Electoral Code of 2014 extends this quota to communal councils in order to guarantee substantial representation of women in decision-making bodies.

56. In order to confront trafficking in persons, Burundi adopted Act No. 1/28 of 29 October 2014 on the prevention and punishment of trafficking in persons and protection of its victims.

57. Moreover, in order to strengthen strategies to combat violence against women, Act No. 1/13 of 22 September 2016 on the prevention and punishment of gender-based violence and protection of its victims was promulgated.

(b) Institutional framework

58. As mentioned above, the Government has put in place gender offices and units in all relevant ministries.

(c) Operational framework

59. Burundi has continued to implement the National Gender Policy inspired by the Beijing Platform for Action by implementing its Action Plan 2012–2016, and the Plan of

Action of United Nations Security Council resolution 1325 on Women, Peace and Security 2012–2016.

60. Regarding the empowerment of women, a $740,000 fund has enabled loans totalling $647,400 to be granted to 5,168 persons, 3,858 of whom are women.[13] The Government encourages women's organizations to become involved in trade and make efforts to strengthen managerial and business capacities. Many women's organizations are now involved in trade, microcredits and other business activities.

61. With regard to decision-making bodies, considerable progress was made at the 2015 elections, as the following table shows:

Indicators	*2013*	*2014*	*2015*
% seats occupied by women in the National Assembly	31.7%	29.2%	36.4%
% seats occupied by women in the Senate	46%	46.3%	41.8%
% of female communal administrators	31%	31.7%	33.6%
% of female heads of hill districts	7.1%	5.3%	6.3%

Source: Data of the National Independent Electoral Commission (CENI).

2. Rights of the child

62. Burundi has made great progress regarding the administration of justice for juveniles. The Code of Criminal Procedure of 2013 mainly introduced innovations concerning the preliminary investigation, the judicial investigation and the prosecution and trial of juveniles under 18 years old (arts. 222 to 243). These include: compulsory legal assistance of children throughout the proceedings; compulsory accompaniment of children by their parents or relatives; compulsory social investigation of the child; compulsory separation of juvenile and adult detainees; speedy treatment of juvenile cases with the introduction of orange files; the establishment of specialized juvenile chambers in courts; introduction of in camera hearings in prosecutions involving juveniles; and the establishment of two juvenile rehabilitation centres for minors in conflict with the law.

63. The various initiatives to bring the juvenile justice system into line with international standards have led to a reduction in the number of juveniles in detention and an improvement in their conditions of detention. Thus, while in 2012 there were 440 juveniles in conflict with the law countrywide and more than 120 infants living with their mothers in detention centres, at the end of 2015, 145 were detained and 48 infants were with their mothers in prison.[14]

64. Moreover, steps have been take to tackle the phenomenon of street children. In December 2013, the Government adopted a National Strategy to Prevent and Combat the Phenomenon of Street Children. A national platform of those working in this field (state services and civil society) implements the National Action Plan aimed at prevention, and the identification and reintegration of victims in their families and communities and combating this phenomenon.

65. These measures have been taken to strengthen other government actions through, in particular, the *Centre d'Encadrement et de Réinsertion des Enfants Soleil* (CERES) and the *Projet Enfants Soleil* (PES), which remove children from the street and reintegrate them in society and work. Other civil society organizations are also involved in the family reintegration of such children.

3. Rights of the Batwa

66. Article 22 of the Constitution of the Republic of Burundi protects all citizens from discrimination. The Batwa therefore enjoy the same civil and political rights as other Burundian citizens.

67. In recent years, affirmative measures have been taken, including to ensure that minorities are represented in Parliament through a quota system. Thus the Constitution

gives the Batwa three seats in the National Assembly, three in the Senate and one seat in the Parliament of the East African Community. A representative of the Batwa communities was recently appointed to the Land and Property Commission, as a member of the East African Legislative Assembly (EALA), as representatives to the State General Inspectorate and the National Commission for Dialogue among Burundians, and an officer was appointed to the Ministry of Human Rights.

68. Moreover, as a result of the Government's introduction of free primary education in 2009, the number of Batwa children in primary education is increasing. Health care and consultations are now free for poor Batwa families and children. The Batwa are also taken into account by the villagization policy.

69. Other positive measures taken by the Government include the distribution of land to the Batwa to help them become sedentary. The Ministry of Human Rights, Social Affairs and Gender is also bearing certain costs of marriage ceremonies and in the event of hospitalization. International partners are supporting projects to promote citizenship and access to justice for the Batwa community.

4. Rights of albinos

70. Awareness-raising campaigns have been conducted in Burundi to ensure the protection of persons with albinism, especially children. Neighbourhood policing has even been introduced to protect such persons. The Government has also approved organizations for the defence of people with albinism, including *Albinos sans frontières* and the *Organisation pour la Protection des Albinos* (OPA-Burundi), whose objective is to help persons with albinism to defend their rights.

71. The Ministry of Human Rights, Social Affairs and Gender continues to allocate F Bu 900,000 to such organizations to provide for the nutritional, educational and health needs of persons with albinism.

72. Nonetheless, there remain difficulties connected with diseases affecting their eyes and skin that require expensive medicines.

5. Disaster victims

(a) Displaced persons and refugees

73. The existence of internally displaced persons camps, the appearance of new refugees in neighbouring countries following the political crisis of 2015, and the victims of natural disasters caused by climate change in certain parts of the country mean that there are still various categories of disaster victims.

74. In late June 2016, at least 267,887 Burundians, more than half of them children, fled to neighbouring countries.[15] In 2016, there were 41,752 internally displaced persons belonging to 8,769 households in Burundi.

75. Burundi is continuing its efforts to reintegrate disaster victims, including by putting in place the National Reintegration Strategy, 2nd generation (2016–2020), the objectives of which are to enable each target group: to regain geographical stability in order to acquire a lasting physical place in host communities; to have the means of economic subsistence enabling them to access opportunities offered by productive systems and local markets, including employment; and to have a position that makes it possible to participate fully in community, associative and political life in partnership with other members of the community.

76. The Government has set up the National Commission for Dialogue among Burundians to improve the political climate in order to foster mass return of refugees to the country. Awareness-raising sessions have also been organized in Burundian refugee camps. In the framework of the reintegration of those displaced by war, a Special Land and Property Court was set up in 2014 to speed up cases connected with reclaiming land and other property lost during the various crises.

(b) Persons displaced by climate change

77. Burundi has experienced many events linked to climate change, which have caused increased movements of internally displaced persons towards places of refuge. Three major events have marked the country, causing enormous damage. The torrential rains of 1 May 2016 in Gatumba Commune, Bujumbura Province resulted in the displacement of 755 households, of which 303 were sheltered in the Mushasha I site and 102 in the Mushasha II site, while 350 others found refuge in other households in Bujumbura unaffected by this natural disaster.

78. Prior to that were the landslides that affected two communes in Rumonge Province, Muhuta on Gitaza hill on 25 January 2016 and Bugarama on Cashi hill on 6 November 2015. A great deal of damage was recorded, including the destruction of homes and social and public infrastructure.

79. The most destructive event was the catastrophe that took place on the night of 9 to 10 February 2014 in Bujumbura Mairie in the northern districts of the capital, especially those of Gatunguru and Carama, when torrential rains, with run-off, erosion, collapse and overflowing watercourses caused enormous damage. In addition to 89 dead and many wounded, some F Bu 2.5 billion worth of crops were lost (provisional estimate of the Ministry of Agriculture and the Food and Agriculture Organization of the United Nations (FAO)). More than 3,000 homes were destroyed; 1,217 households found refuge in the four displacement sites of Buterere, Kamenge, Kinama I and Kinama II, while more than 2,000 other households found refuge in host families.[16]

80. In addition to these three major events, other natural disasters have hit Burundi and caused the internal displacement of many victims, including: the drought that caused the famine-related displacement of 1,557 persons in Kirundo and Cankuzo provinces; the torrential rains in the provinces of Muyinga, Cankuzo and Rutana that destroyed houses and displaced 512 persons; the landslides that displaced 78 persons in the provinces of Muyinga and Makamba; and the high winds that displaced 371 persons and destroyed houses and public infrastructure, notably in the provinces of Rutana, Muyinga and Rumonge.[17]

81. Faced with all these natural disasters, the Government of Burundi has implemented policies, strategies and action plans on infrastructure and disaster risk management, including the city planning blueprint, the rainwater treatment master plan, the national strategy to strengthen disaster risk reduction capacities and the National Action Plan to adapt to climate change, with three categories of activities: emergency — activities to prevent further damage; medium-term — activities to restore infrastructure; and long-term — activities to enable resilient reconstruction.

82. In order to tackle these problems, a total of F Bu 164 billion have been set aside. Of this, F Bu 134 billion have been allocated for the repair or development of infrastructure and risk and disaster management. At the same time, F Bu 30 billion have been earmarked for the stabilization of watersheds, particularly around Bujumbura.[18]

D. Transitional justice

83. The Government of Burundi set up the Truth and Reconciliation Commission under Act No. 1/18 of 15 May 2014 on the establishment, terms of reference, composition, organization and functioning of the Truth and Reconciliation Commission (CVR). The Commission's mission is to investigate and establish the truth about the serious human rights violations committed between 1 July 1962 and 2008, when hostilities ceased.

84. To support the mission of the Commission, Act No. 1/04 of 27 June 2016 on the protection of victims, witnesses and other persons at risk was promulgated. As at 24 February 2017, the Truth and Reconciliation Commission had received 342 statements in Muhuta commune, 74 in Nyahangwa commune and 56 in Mukaza commune.[19]

III. Follow-up of recommendations made to Burundi following the second universal periodic review

85. Burundi has implemented some of the recommendations arising from the second cycle of the universal periodic review, including:

- Ratifications: of the seven conventions and protocols recommended, Burundi ratified the Optional Protocol to the Convention Against Torture in September 2013, and the Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto in March 2014.
- Guarantee of public freedoms: repeal was recommended of the restrictive provisions contained in the Press Act, the Act on public demonstrations and meetings and the Act on non-profit organizations. Burundi has revised the relevant legal framework (see above).
- Transparent establishment of transitional justice mechanisms: Burundi has established the Truth and Reconciliation Commission.
- Combating violence against women: promulgation of Act No. 1/13 of 22 September 2016 on the prevention and punishment of gender-based violence and protection of its victims, and establishment of three integrated gender-based violence centres, in addition to the Humura Centre.
- Combating discrimination, and child protection: specialized chambers for the protection of juveniles in conflict with the law have been established in regional courts; on 27 November 2015, Burundi set up a telephone helpline (+257) 116) for children to call in case of danger; two rehabilitation centres have been established for juveniles in conflict with the law.
- Combating poverty: Burundi has continued to implement the Strategic Framework for Growth and to Combat Poverty (CSLP II) and to prepare the National Development Plan.
- Strengthening the National Human Rights Commission: four regional offices have been established and provincial focal points put in place.
- Strengthening the internal legal framework to strengthen the rule of law: promulgation of Act No. 1/10 of 3 April 2013 amending the Code of Criminal Procedure, and adoption of the sectoral policy of the Ministry of Justice 2016–2020.
- Reducing prison overcrowding, and separating the places of detention of pregnant women and mothers with children. This has been done through presidential pardons, the installation of women's sections in prisons, and the establishment of rehabilitation centres for juveniles in conflict with the law.
- Protection of victims and witnesses during the work of the Truth and Reconciliation Commission: Burundi has adopted Act No. 1/04 of 27 June 2016 on the protection of victims, witnesses and other persons at risk.
- Reducing prolonged detention: places of detention are regularly inspected by the Ministry of Justice, the Ministry of Human Rights, the National Human Rights Commission and the International Committee of the Red Cross (ICRC).
- Promotion of girls' education and eradication of the root causes of school dropout: Burundi continues to implement the gender equity in education strategy of 2012 and the related action plan 2012–2020.

IV. Identification of best practices, problems and obstacles

86. Best practices:

- National gender-based violence strategies and an Act concerning such violence.
- Amendment of the Code of Criminal Procedure to introduce a juvenile justice system.

- Free basic education, free health care in public health facilities for children under five and women in childbirth.
- Frequent questioning of the executive by Parliament.

87. Challenges and obstacles:

- Insufficient financial resources.
- Freezing of support by the international community.
- The mismatch between the population explosion and the national economy.
- The production of false reports on human rights by some NGOs in order to tarnish Burundi's image.

V. National priorities, initiatives and commitments

88. The Government of Burundi is committed to continuing to promote and protect human rights through:

- Vision Burundi 2025.
- The Strategic Framework for Growth and to Combat Poverty.
- The National Development Plan.
- The citizenship education and patriotic training programme.
- Implementation of the action plan of the national human rights policy 2012-2017, adopted on 31 January 2013.

VI. Capacity-building and technical assistance expectations

89. The capacities of the Standing Committee responsible for drafting initial and periodic reports need constant reinforcement in order to enable Burundi to keep up-to-date with the production of such reports.

90. The Truth and Reconciliation Commission also needs assistance if it is to accomplish fully the missions assigned to it by its terms of reference.

Notes

[1] Données recueillies en 2016.
[2] Loi N°1 010 du 18 mars 2005 portant promulgation de la Constitution de la République du Burundi. Article 9, Alinéa 1
[3] Ordonnance Ministérielle n°550/1622 du 19 novembre 2013 portant Mission, Composition et Fonctionnement des Chambres Spéciales pour Mineurs et Victimes des Violences Sexuelles au Burundi
[4] Centres de Développement Familial et Communautaire
[5] Bureau des Statistiques au Ministère en charge de l'Education Nationale
[6] OMS-Burundi. Stratégie de coopération avec le pays 2009-2015. Revue en 2014
[7] OMS-Burundi. Stratégie de coopération avec le pays 2009-2015. Revue en 2014
[8] EDS-Burundi 2010
[9] Countdown to 2015. Maternal, Newborn & Child. Burundi. The Report 2014
[10] Countdown to 2015. Maternal, Newborn & Child. Burundi. The Report 2014
[11] Countdown to 2015. Maternal, Newborn & Child. Burundi. The Report 2014
[12] EDS-Burundi 2010
[13] Rapport du MEBPHASG 2016
[14] Rapport sur l'evaluation rapide conjointe suite à la catastrophe des 9-10 février 2014 aux alentours de Bujumbura, par la Plateforme Nationale de prevention des risques et Gestion des Catastrophes, le Ministère des Finances, la Banque mondiale, l'Union Européenne et l'OIM
[15] Données d'UNHCR de 2016.
[16] Rapport sur l'evaluation rapide conjointe suite à la catastrophe des 9-10 février 2014 aux alentours de Bujumbura, par la Plateforme Nationale de prevention des risques et Gestion des Catastrophes, le

- Ministère des Finances, la Banque mondiale, l'Union Européenne et l'OIM
- OMS, Ministre de Santé des Départements [illegible]
- Rapport sur l'évaluation rapide conjointe suite à la catastrophe des 9-10 février 2014 aux alentours de Bujumbura par la Plateforme Nationale de prévention des risques et Gestion des Catastrophes, le Ministère des Finances, la Banque mondiale, l'Union Européenne et l'OIM
- Données de la CVR

United Nations A/HRC/WG.6/29/BDI/2

General Assembly

Distr.: General
13 November 2017
English
Original: English/French

Human Rights Council
Working Group on the Universal Periodic Review
Twenty-ninth session
15–26 January 2018

Compilation on Burundi

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies[1–3]

2. On 11 October 2016, the Government of Burundi suspended all cooperation and collaboration with the Office of the United Nations High Commissioner for Human Rights in Burundi (OHCHR-Burundi), thereby hindering the fulfilment of the latter's mandate. Moreover, the human rights situation was growing worse. OHCHR-Burundi therefore encouraged Burundi to expedite its negotiations on a memorandum of understanding that would allow it to promptly resume working with the Government.[1]

3. The Committee on the Elimination of Discrimination against Women regretted the intention of Burundi to withdraw from the Rome Statute of the International Criminal Court; its rejection of the independent investigation on Burundi carried out pursuant to Human Rights Council resolution S-24/1, and the consequent declaration of the independent experts as persona non gratae in Burundi; its rejection of cooperation with the Commission of Inquiry on Burundi, established by the Human Rights Council in its resolution 33/24; and its ongoing reassessment of its cooperation with and the presence of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the State. The Committee called upon Burundi to ensure unhindered access by United Nations entities, including OHCHR and the Commission of Inquiry, to all areas and to continue cooperating with the Prosecutor of the International Criminal Court.[4]

4. The Special Rapporteur on the situation of human rights defenders stated that Burundi had yet to sign the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Optional Protocol to the International

GE.17-19916 (E) 041217 051217
1719916

Please recycle

Covenant on Civil and Political Rights; the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights; and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.'

5. The same Special Rapporteur reported that Burundi had been examined under the universal periodic review in January 2013. During the review, 174 recommendations had been made, 146 of which had been accepted by the Government. The remaining recommendations had been rejected by the Government, including 14 relating to freedom of expression and association.[5]

6. The independent experts who conducted the independent investigation on Burundi carried out pursuant to Human Rights Council resolution S-24/1 (the independent experts), recommended that Burundi immediately ratify, without reservations, the International Convention for the Protection of All Persons from Enforced Disappearance.[7]

7. The United Nations Educational, Scientific and Cultural Organization (UNESCO) encouraged Burundi to ratify the Convention against Discrimination in Education.[8]

8. The Office of the United Nations High Commissioner for Refugees (UNHCR) reported that Burundi had acceded in 1963 to the Convention relating to the Status of Refugees and in 1971 to its 1967 Protocol. However, despite applying a flexible approach and having inclusive policies towards refugees, Burundi had made reservations to the Convention that limited refugees' freedom of movement, access to wage-earning employment and right to education.[9]

III. National human rights framework[10]

9. The Committee on the Elimination of Discrimination against Women recommended that Burundi allocate the human, technical and financial resources necessary to ensure the implementation of the national gender policy, and establish its monitoring mechanisms, including the National Gender Council.[11] It also recommended that Burundi effectively implement the national plan to combat gender-based violence (2010).[12] The Committee welcomed the national action plan for the implementation of Security Council resolution 1325 (2000) on women, peace and security, covering the period 2012-2016.[13]

10. OHCHR-Burundi regretted that the National Independent Human Rights Commission was to be downgraded from A to B status by the Global Alliance of National Human Rights Institutions, and invited the Commission to work with the Office to ensure its independence.[14]

11. The Special Rapporteur on human rights defenders urged the newly appointed members of the Commission to do their utmost to regain the confidence of human rights defenders and ensure that the Commission was a strong, independent institution capable of credible and impartial scrutiny of the State's human rights obligations.[15] In addition, the Commission must be consulted in processes undertaken to establish human rights protection mechanisms, in particular in the implementation of a programme to protect human rights defenders.[16]

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination[17]

12. The Human Rights Committee was concerned by reports that homosexuals were faced with threats to their physical integrity, intimidation and discrimination in various

spheres of life. In particular, the Committee was concerned by the fact that homosexuality was defined as an offence in the Criminal Code; the fact that students considered to be homosexuals might be barred from their schools; and the obstacles faced by homosexuals seeking to found associations. The Committee recommended that Burundi decriminalize homosexuality.[18]

13. The Committee on the Elimination of Discrimination against Women expressed concern that Burundi had done little to amend existing laws that discriminated against women, including the Code of the Person and the Family (arts. 38, 88, 122 and 126), the Nationality Code (art. 4), the Labour Code (title 4) and the Criminal Code (arts. 353–357, 363 and 539). It recommended that Burundi accelerate its law reform process and, within a specific time frame, repeal all discriminatory provisions and harmonize all laws in line with the Convention on the Elimination of All Forms of Discrimination against Women and ensure their effective implementation.[19]

2. Development, the environment, and business and human rights

14. The Committee on the Elimination of Discrimination against Women welcomed that gender equality was a first priority of the strategic framework on combating poverty and that the strategic framework had established a fund to finance agricultural activities of rural women. The Committee was concerned that most women still faced barriers to their economic empowerment, given their poor socioeconomic condition, the stereotypes against them, their limited access to credit for failure to meet banks' requirements and the unequal inheritance rights regarding the right to land tenure.[20]

B. Civil and political rights

1. Right to life, liberty and security of person[21]

15. OHCHR-Burundi reported that with Nkurunziza's victory in the presidential elections, a phase of intensifying violence had begun.[22] The independent experts stated that, on 25 April 2016, the Office of the Prosecutor of the International Criminal Court had started a preliminary examination on alleged crimes under the jurisdiction of the International Criminal Court committed in Burundi since April 2015. The preliminary examination focused on allegations of killing, imprisonment, torture, rape and other forms of sexual violence, as well as cases of enforced disappearances.[23]

16. The independent experts reported that the attacks of 11 December 2015 by armed groups on four military camps, three in Bujumbura and one in the province of Bujumbura Rural, had been followed by operations during which security forces had allegedly committed massive violations of human rights, notably a high number of extrajudicial executions of young people.[24] They recommended that Burundi immediately cease using the intelligence services and the police force, in particular, as armed instruments in defence of a partisan political project,[25] and that all non-State actors prioritize the protection of civilians and refrain from human rights abuses.[26]

17. Between 26 April 2015 and October 2016, OHCHR-Burundi documented 580 cases of persons killed in connection with the crisis: civilians, members of the opposition, members of civil society, police officers, Imbonerakure, members of the Conseil national pour la défense de la démocratie-Forces de défense de la démocratie (CNDD-FDD) and members of the military. In some cases, the extrajudicial executions documented by OHCHR-Burundi had been preceded by enforced disappearances, as the victims were abducted before being killed and later discovered.[27] OHCHR-Burundi recommended prosecuting those responsible for human rights violations in order to end impunity.[28]

18. From April 2015 to October 2016, OHCHR-Burundi documented at least 9,568 persons arrested and detained in relation to the crisis. At least 5,321 detainees had been released. The majority of those arrests and detentions had been carried out by the police and the National Intelligence Service, with the help of Imbonerakure. The victims were members of the opposition and of civil society who were against the President's additional term in office, and journalists.[29]

19. The Special Rapporteur on human rights defenders noted many cases in which human rights defenders and journalists had been killed, assaulted, forced into exile, arbitrarily arrested, detained, threatened, harassed, stigmatized or defamed in the media. He recommended that the Government of Burundi carefully consider allegations and reports of violence, intimidation, harassment and surveillance on human rights defenders, conduct prompt and impartial investigations accordingly and hold perpetrators accountable, including for acts committed during the pre- and post-election periods in 2015.[30]

20. The Committee against Torture was concerned by the 651 cases of torture that had been documented by OHCHR-Burundi between April 2015 and April 2016. It was also concerned at the increase in acts of torture associated with the political crisis, as reported by the Secretary-General and the independent experts after their second visit to Burundi. The Committee remained deeply concerned by the discrepancy between the information issued by the Government and the numerous cases of torture documented in the report of the High Commissioner (A/HRC/32/30), which would seem to indicate that not all allegations of torture had been the subject of an investigation.[31] The independent experts recommended that the Government establish as a priority an effective torture prevention mechanism, in accordance with its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[32]

21. OHCHR-Burundi had visited the 11 prisons and police holding cells in Burundi and observed overcrowding resulting from the waves of arrests of protesters opposed to a new term for the President, members of the opposition and civil society, and persons suspected of joining rebel movements in Rwanda or the United Republic of Tanzania. OHCHR-Burundi had observed that, in some cases, detainees had not been given food for several days and had further observed that children were rarely held separately from adults in police holding cells and in the National Intelligence Service.[33]

22. The Committee on the Elimination of Discrimination against Women was seriously concerned about the exacerbation of violence against women in Burundi since the onset of the internal conflict in April 2015. It had received disturbing reports that members of the ruling party's youth league, the Imbonerakure, had repeatedly gang-raped women who were family members of perceived government opponents. The Committee had also received reports that had consistently documented different forms of violence against women, including physical abuse, rape and other forms of sexual violence, mutilation and torture, perpetrated by the security forces, including during house searches, mass arrests and flight from the country. It recommended that Burundi immediately issue orders to the police, military and the Imbonerakure prohibiting all forms of violence against women; that it ensure that sexual violence was raised early and consistently in the resolution of the conflict and, ultimately, was addressed adequately in a peace agreement; and that it continue to reject amnesties for gender-based crimes, in particular sexual violence.[34]

23. The same Committee noted with concern that 45 per cent of women in prison were held in pretrial detention, indicating the inefficiency of the criminal justice system. It was also concerned about the conditions of detained women, including overpopulation in prisons, the lack of systematic separation from male detainees and from convicted inmates, as well as inadequate access to adequate food and health care. It was further concerned at the number of women detained with infants and young children and the lack of any social care and protection measures for the children of detained women who were separated from their mothers.[35]

2. Administration of justice, including impunity, and the rule of law[36]

24. Most of the human rights violations documented by OHCHR-Burundi, including summary executions, enforced disappearances, torture and the alleged sexual violence committed by members of the defence and security forces or the Imbonerakure, had not led to prosecution. Hundreds of people arrested during the demonstrations, or following the fighting between the security forces and armed men, had remained in detention without trial.[37] OHCHR-Burundi recommended that the Government of Burundi should conduct an immediate review of the legality of detentions, release arbitrarily arrested people and ensure that everyone arrested in the context of the current crisis had the right to a fair trial.[38]

25. The Human Rights Committee was concerned about the numerous failures and shortcomings in the judicial system of Burundi, in particular the insufficient number of judges and prosecutors, the shortage of resources, the serious backlog of cases in the court system and the lack of independence of the judicial branch owing to interference from the executive branch in the administration of justice. The Committee recommended that Burundi ensure the independence of the judiciary.[39]

26. The Committee on Economic, Social and Cultural Rights was concerned that the security of judges' tenure was not adequately guaranteed, which could seriously undermine their independence. It recommended that Burundi ensure that judges were selected and appointed in an open and transparent manner based on the candidates' integrity and competences and that it strengthen guarantees of their independence.[40]

27. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence reported that, by the end of April 2015, concerns about the 2015 electoral process had deepened.[41] He expressed concern that discussions in the area of criminal justice for massive violations had come to a halt. Delaying discussion on the set-up of judicial mechanisms until the conclusion of the Truth and Reconciliation Commission's work meant that justice would be foregone in a great number of cases.[42] The Special Rapporteur recommended that Burundi immediately resume discussions, without waiting for the Truth and Reconciliation Commission to complete its work and with the participation of civil society, including victims, on proposed concrete models for a judicial mechanism to prosecute genocide, crimes against humanity, war crimes or other gross human rights violations or serious violations of international humanitarian law; and to immediately undertake preparatory work for judicial investigations and prosecutions.[43]

28. The same Special Rapporteur stated that reparation initiatives, thus far, had focused mainly on the restitution of land, while other forms of reparation, particularly rehabilitation of victims, had been excluded.[44] He recommended that Burundi initiate broader land reform to overcome pre-existing patterns of discrimination and, in that respect, increase access to land by women, through a comprehensive revision of existing legislative provisions on inheritance rights, registration and titling. On the Truth and Reconciliation Commission, he recommended that Burundi initiate discussions, with the involvement of civil society, including victims, on a feasible comprehensive reparation programme.[45]

29. The independent experts stated that the accountability mechanisms were exceedingly weak and impunity was endemic, which allowed cycles of violence to continue unabatedly. Furthermore, virtually nothing was being done by way of effective remedy to victims, including bringing perpetrators to justice, or to prevent the recurrence of the violations.[46]

30. OHCHR-Burundi reported that many NGO members had been victims of intimidation, arbitrary arrest and detention, physical assault, extrajudicial execution and murder.[47] OHCHR-Burundi recommended continuing to make efforts to expand civil liberties by putting an immediate end to the suspensions of and other sanctions against NGOs defending human rights, the media and civil society in general and by facilitating their work.[48]

3. Fundamental freedoms and the right to participate in public and political life[49]

31. The Special Rapporteur on human rights defenders expressed concern about reports of threats and acts of harassment and intimidation against journalists and human rights defenders by the police and the Imbonerakure. He recommended that the situation of human rights defenders, in particular the most targeted and vulnerable defenders, be constantly monitored, and that support for their work be provided in order to allow civil society to operate safely.[50]

32. The Committee on the Elimination of Discrimination against Women welcomed the constitutional quota of 30 per cent representation of women in Government, in Parliament and in the Senate and the resulting increase in the participation of women in political life.[51] The Human Rights Committee was concerned by the fact that there were so few women representatives in public affairs at the provincial and local levels.[52] The Committee on the Elimination of Discrimination against Women recommended that Burundi pursue sustained

policies aimed at the promotion of women's full and equal participation in decision-making at the national and local levels.[53]

33. The Special Rapporteur on human rights defenders noted with concern reports that political parties and other groups had been prohibited from demonstrating in Burundi and that demonstrators had been intimidated and harassed. He further noted with concern that, on the basis of the principle of maintaining public order, the authorities had arbitrarily banned all public demonstrations organized by certain civil society organizations that had been regularly denouncing human rights violations since 2009.[54]

34. The same Special Rapporteur reported that, in accordance with article 31 of the Constitution, freedom of expression must be guaranteed and the State must respect freedom of religion, belief, conscience and opinion. However, the Press Act of 4 June 2013 curtailed freedom of expression and contained several provisions contrary to the International Covenant on Civil and Political Rights and other international instruments. The Act provided for a broad exception to the right of journalists not to reveal their sources in cases involving national security, public order, defence secrets and the physical or mental integrity of one or more persons.[55]

35. Freedom of expression remained restricted. Activities of media critical of the Government had been suspended, while independent media professionals had suffered arbitrary arrests, torture and enforced disappearance. OHCHR-Burundi recommended that the Government uphold freedom of expression.[56]

36. Human rights defenders had been intimidated and ill-treated by security forces. OHCHR-Burundi recommended that a national mechanism of protection of human rights defenders be set up and operationalized.[57]

4. Prohibition of all forms of slavery[58]

37. The Committee on the Elimination of Discrimination against Women welcomed the 2014 law on the prevention and repression of trafficking in persons and the protection of victims of trafficking and noted its implementation through a multisectoral action plan for the period 2014–2017 and the establishment of a national committee. It recommended that Burundi provide continuous capacity-building for law enforcement officials on the early identification, referral and rehabilitation of trafficking victims, and that it prevent, prosecute and adequately punish traffickers and perpetrators of related human rights violations and adopt gender-specific protection measures for women and girl victims.[59]

5. Right to privacy and family life[60]

38. The Human Rights Committee was concerned by the fact that men and women were not treated equally with regard to inheritance, matrimonial regimes and bequests. It also noted that article 88 of the draft personal and family code still provided for different minimum ages of marriage for men and women. It recommended that Burundi amend the Personal and Family Code so that it set the same minimum age of marriage for men and women, in accordance with international standards.[61]

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work

39. The Committee on the Elimination of Discrimination against Women welcomed the revision of the Labour Code to strengthen women's rights at work and eliminate the persistent wage gap. It further noted the existence of an advanced draft law protecting the right to work for persons with disabilities. It recommended that Burundi expedite the revision of the Labour Code and ensure that it guaranteed substantive equality of women and men, prohibited labour discrimination and enshrined the principle of equal pay for work of equal value.[62] The Committee on Economic, Social and Cultural Rights made similar recommendations.[63]

40. The Committee on the Elimination of Discrimination against Women was concerned about the lack of the protection of domestic workers from exploitation and sexual abuse, that child labour had not yet been banned and that girls continued to be exploited, particularly in domestic work. It recommended that Burundi strictly prohibit child labour and raise the minimum age of employment.[64]

41. The independent experts stated that half of young people in Burundi were estimated to be unemployed. The majority of the demonstrators against the third presidential mandate had been young people, and the high unemployment rate might provide a large source of recruitment for nascent rebel movements and the Imbonerakure. The agricultural sector, which employed 90 per cent of the economically active population, had been affected both by displacement of persons and by the land conflicts that such displacement generated.[65]

2. Right to social security

42. The Committee on Economic, Social and Cultural Rights noted with concern that, despite the adoption of a national social protection policy and the establishment of the Social Protection Support Fund, a large part of the population of Burundi lacked any kind of social protection.[66]

3. Right to an adequate standard of living[67]

43. The same Committee was concerned that, despite the launch of strategic frameworks for poverty reduction, much of the population did not enjoy an adequate standard of living. Poverty was highest among the most disadvantaged and marginalized groups in Burundi, including women, the Batwa and internally displaced persons.[68]

44. The Committee noted with concern that, despite the launch of the National Agricultural Strategy and the National Agricultural Investment Plan, much of the population lived in a situation of food insecurity. It was also concerned by the high levels of chronic child malnutrition. It recommended that Burundi step up efforts to ensure the right to adequate food and to address hunger and child malnutrition, in particular in rural areas.[69]

4. Right to health[70]

45. The Committee was concerned that, despite the efforts by Burundi to improve access to health services through such means as the medical assistance card, disadvantaged or marginalized individuals and groups, in particular the Batwa and internally displaced persons, continued to encounter obstacles in gaining access to health services. It recommended that Burundi allocate sufficient resources to the health sector and continue its efforts to guarantee the accessibility, availability and quality of health services, in particular in remote rural areas.[71]

46. The Committee on the Elimination of Discrimination against Women was concerned about the persistently high ratios of maternal and infant mortality, the prevalence of HIV/AIDS among women who worked as prostitutes and in rural areas, and the acute malnutrition affecting women. It recommended that Burundi reduce maternal mortality by improving access to basic prenatal and postnatal care, emergency obstetric services, skilled birth attendance and post-abortion care, and access to specialist care, throughout its territory.[72]

47. The same Committee recommended that Burundi decriminalize abortion and expand the grounds on which abortion was permitted to include cases of rape, incest, risk to the life and health of the mother or severe malformation of the fetus, and prepare guidelines on post-abortion care to ensure that women who were pregnant as a result of rape or incest had free access to safe abortion services.[73]

5. Right to education[74]

48. UNESCO reported that Burundi had taken steps to improve school enrolment rates for girls. However, measures unfavourable to girls continued to exist, such as the requirement that girls who gave birth must wait for one year before returning to school, a requirement which severely hindered their educational opportunities. Moreover, girls

continued to be the victims of violence, including sexual violence, on their way to school and in school facilities. UNESCO recommended that Burundi should pursue its efforts to increase girls' enrolment in schools in order to ensure that they had equal access to education, and should eliminate discrimination and violence against girls.[75]

49. UNESCO noted that the principle of non-discrimination, enshrined in the Constitution, was not observed, since children with specific needs, internally displaced persons, refugees, children of the Batwa minority, and children with albinism had faced major challenges in accessing education, mainly because of discrimination and inability to pay school fees. UNESCO recommended that Burundi should take steps to eliminate discrimination against children with specific needs, internally displaced persons, refugees, children of the Batwa minority and children with albinism,[76] and that it should pursue efforts to improve literacy by developing and strengthening relevant partnerships.[77]

D. Rights of specific persons or groups

1. Women[78]

50. UNHCR reported that the risk of gender-based violence, including sexual violence, had worsened. Communities had disclosed feelings of insecurity, particularly single women, widows, adolescent girls and female heads of households, who were more vulnerable to sexual exploitation because of the erosion of protective family and community structures, the lack of access to livelihoods and the dysfunction of the judicial and administrative system, which often led to impunity. In addition, female refugee returnees might face higher risks of sexual violence owing to political stigmatization.[79] UNHCR recommended that Burundi strengthen the capacity of the criminal judiciary and enhance access to legal assistance for survivors of gender-based violence, without any discrimination, in order to promote a system of effective justice, and of prevention and response to gender-based violence.[80]

51. The independent experts stated that the crisis had exacerbated the already prevalent issue of sexual and gender-based violence in Burundi. Furthermore, they had obtained credible information indicating that many Burundian women and girls related to males who had opposed the third term, or had been perceived as political dissidents, had become the targets of physical and sexual violence by elements of the security forces.[81]

52. The dissemination, with a view to the effective implementation, of Act No. 1/1013 of 22 September 2016, on the prevention, protection of victims and suppression of gender-based violence, had been a challenge, especially for lawyers and others involved in the criminal justice system. The information documented the cases of girls (and women) who were victims of rape and who experienced pressure from their families or local administrative representatives to agree to out-of-court settlements. As a result of such pressure, as well as intimidation by the perpetrators of the abuses in question, victims renounced their right to justice. Victims rarely appealed to care services owing to a lack of information or out of fear of stigma and reprisals.[82]

53. The Committee on the Elimination of Discrimination against Women recommended that Burundi ensure protection for rural women workers, especially those working in the informal sector, in social protection policies, especially social security, maternity and retirement under the national social protection plan, and that it ensure women did not encounter any legal or administrative impediments in exercising their constitutional right to landownership.[83]

2. Children[84]

54. UNHCR reported that a greater number of children were at risk of violence, abuse and exploitation, including sexual exploitation and trafficking, owing to the socioeconomic situation and the high rate of school dropout. Furthermore, there were concerns over the systematic practice of police round-ups targeting street children — leading to the detention of the minors and their forced return to their supposed areas of origin — and over house searches. It recommended that Burundi convert the current practices of police control and

repression against street children into a prevention and protection response system, with the aim of granting adequate reception, assistance, family reunion and other durable solutions.[85]

55. The Committee on Economic, Social and Cultural Rights noted with concern that corporal punishment was not explicitly prohibited in the home and that such punishment was widely tolerated and practised in Burundian society, including in schools, alternative care settings and prisons.[86]

3. Minorities and indigenous peoples[87]

56. According to OHCHR-Burundi, the Batwa still suffered from discrimination in equal access to land, education and health services. The Office urged Burundi to uphold the United Nations Declaration on the Rights of Indigenous Peoples in order to better protect minority rights.[88]

4. Migrants, refugees, asylum seekers and internally displaced persons

57. UNHCR reported that Burundian authorities did not fully acknowledge the presence of persons who had been internally displaced owing to the 2015 sociopolitical crisis and related violence. Incidents of arbitrary arrest and illegal detention of returnees upon their arrival in Burundi had been reported. Moreover, new displacement situations had been generated by evictions and security operations. UNHRC recommended that Burundi discontinue the practice of systematic arrest and detention of returnees at the border, while introducing procedural safeguards for any security control.[89]

58. The Committee on the Elimination of Discrimination against Women noted that the political instability and security situation in Burundi since April 2015 had resulted in more than 50,000 persons being internally displaced and 320,000 persons seeking refuge outside the country, the majority of whom were women and children. It further noted that more than 50,000 refugees from neighbouring countries resided in Burundi.[90]

59. The same Committee had received consistent reports indicating that women and girls in contexts of internal and external displacement were at heightened risk or had been subjected to sexual violence and exploitation. It was concerned that no preventive measures were being taken by Burundi to ensure protection against forced displacement, as well as access to basic services by displaced women and girls.[91]

5. Stateless persons

60. UNHCR recommended that Burundi finalize the ratification process of the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness, and that it reform the Nationality Law with a view to reinforcing the jus soli clauses and removing any discrimination between men and women in their ability to transmit their nationality *jure sanguinis*.[92]

Notes

1 Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Burundi are available at www.ohchr.org/EN/Countries/AfricaRegion/Pages/BIIndex.aspx.
2 For relevant recommendations see A/HRC/23/9, paras. 126.1–126.17.
3 See OHCHR submission for the universal periodic review of Burundi.
4 See CEDAW/C/BDI/CO/5-6, paras. 8–9.
5 See A/HRC/31/55/Add.2, para. 9.
6 Ibid., para. 10.
7 See A/HRC/33/37, para. 152.
8 UNESCO submission for the universal periodic review of Burundi, p. 5, recommendation 1.
9 UNHCR submission for the universal periodic review of Burundi, p. 1.
10 For relevant recommendations, see A/HRC/23/9, paras. 126.39–126.45.
11 See CEDAW/C/BDI/CO/5-6, paras. 16–17.
12 Ibid., para. 25 (e).
13 Ibid., paras. 10-11.

[14] See OHCHR submission.
[15] See A/HRC/31/55/Add.2, para. 100.
[16] Ibid., para. 103.
[17] For relevant recommendations, see A/HRC/23/9, paras. 126.46, 126.62 and 126.82–126.84.
[18] See CCPR/C/BDI/CO/2, paras. 8–9.
[19] See CEDAW/C/BDI/CO/5-6, paras. 12–13.
[20] Ibid., paras. 40–41.
[21] For relevant recommendations, see A/HRC/23/9, paras. 126.53–126.111.
[22] See A/HRC/32/30, para. 6.
[23] See A/HRC/33/37, para. 119.
[24] Ibid., para. 43.
[25] Ibid., para. 144.
[26] Ibid., para. 153.
[27] See A/HRC/32/30, paras. 10 and 16.
[28] See OHCHR submission.
[29] See A/HRC/32/30, para. 18.
[30] See A/HRC/31/55/Add.2, paras. 52 and 103.
[31] See CAT/C/BDI/CO/2/Add.1, paras. 12–13.
[32] See A/HRC/33/37, para. 143.
[33] See A/HRC/32/30, paras. 24–25.
[34] See CEDAW/C/BDI/CO/5-6, paras. 26–27.
[35] Ibid., paras. 48–49.
[36] For relevant recommendations, see A/HRC/23/9, paras. 126.44, 126.87–126.100 and 126.114–126.131.
[37] See A/HRC/32/30, para. 51.
[38] Ibid., para. 67 (d).
[39] See CCPR/C/BDI/CO/2, para. 19.
[40] See E/C.12/BDI/CO/1, paras. 7–8.
[41] See A/HRC/30/42/Add.1, para. 98.
[42] Ibid., para. 103.
[43] Ibid., paras. 110 (a) and (c).
[44] Ibid., para. 104.
[45] Ibid., paras. 111 (b) and (d).
[46] See A/HRC/33/37, paras. 126 and 130.
[47] See A/HRC/32/30, para. 39.
[48] Ibid., para. 67 (e).
[49] For relevant recommendations, see A/HRC/23/9, paras. 126.110 and 126.140–126.150.
[50] See A/HRC/31/55/Add.2, para. 105.
[51] See CEDAW/C/PLOI/CO/5-6, paras. 30–31.
[52] See CCPR/C/BDI/CO/2, para. 10.
[53] See CEDAW/C/BDI/CO/5-6, paras. 30–31.
[54] See A/HRC/31/55/Add.2, para. 81.
[55] Ibid., paras. 20–21.
[56] See OHCHR submission.
[57] Ibid.
[58] For relevant recommendations, see A/HRC/23/9, paras. 126.30 and 126.94.
[59] See CEDAW/C/BDI/CO/5-6, paras. 28–29.
[60] For relevant recommendations, see A/HRC/23/9, paras. 126.128–126.129.
[61] See CCPR/C/BDI/CO/2, para. 11.
[62] See CEDAW/C/BDI/CO/5-6, paras. 36–37.
[63] See E/C.12/BDI/CO/1, paras. 19–20.
[64] See CEDAW/C/BDI/CO/5-6, paras. 36–37.
[65] See A/HRC/33/37, paras. 93–94.
[66] See E/C.12/BDI/CO/1, paras. 33–34.
[67] For relevant recommendations, see A/HRC/23/9, paras. 126.153 and 126.158.
[68] Ibid., paras. 43–44.
[69] Ibid., paras. 49–53.
[70] For relevant recommendations, see A/HRC/23/9, paras. 126.159–126.163 and 126.170.
[71] Ibid., paras. 51–52.
[72] See CEDAW/C/BDI/CO/5-6, paras. 38–39.
[73] Ibid.
[74] For relevant recommendations, see A/HRC/23/9, paras. 126.68–126.70.
[75] UNESCO submission, paras. 11 and 12, and recommendation 2.

[36] Ibid., p. 5, para. 13, and recommendation 3.
[37] Ibid., p. 5, recommendation 4.
[38] For relevant recommendations, see A/HRC/23/9, paras. 126.15, 126.57, 126.63, 126.86, 126.93, 126.97 and 126.151.
[39] UNHCR submission, p. 3.
[40] Ibid., p. 4.
[41] See A/HRC/33/37, paras. 56 and 58.
[42] See OHCHR submission for the Universal Periodic Review of Burundi.
[43] See CEDAW/C/BDI/CO/5-6, paras. 42–43.
[44] For relevant recommendations, see A/HRC/23/9, paras. 126.31, 126.36–126.37, 126.60–126.61, 126.63, 126.69, 126.86, 126.88, 126.90–126.91, 126.96, 126.98, 126.135–126.136 and 126.165–126.170.
[45] UNHCR submission, pp. 3–4.
[46] See E/C.12/BDI/CO/1, paras. 39–40.
[47] For relevant recommendations, see A/HRC/23/9, paras. 126.46 and 126.170.
[48] See OHCHR submission.
[49] UNHCR submission, pp. 4–5.
[50] See CEDAW/C/BDI/CO/5-6, paras. 44–45.
[51] Ibid.
[52] UNHCR submission, p. 6.

United Nations A/HRC/WG.6/29/BDI/3

General Assembly

Distr.: General
3 November 2017
English
Original: English/French

Human Rights Council
Working Group on the Universal Periodic Review
Twenty-ninth session
15-26 January 2018

Summary of stakeholders' submissions on Burundi*

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 17 stakeholders' submissions to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by stakeholders

A. Scope of international obligations and cooperation with international human rights mechanisms and bodies

2. Amnesty International (AI) and the Advocates for Human Rights (AHR) reported that during the 2011 UPR review, Burundi received a total of 174 recommendations and not supported 39 of them on issues such as decriminalisation of same-sex relations, freedom of expression, association and peaceful association, and extrajudicial executions.[1] Further, AI indicated that the authorities have failed to investigate and prosecute many extrajudicial executions committed before and during the period under review.[4]

3. AI, AHR, JS3 and Reporter sans Frontières (RSF) added that in October 2016, the government declared the three members of the Council-mandated Independent Investigation on Burundi persona non grata, and suspended cooperation with the Office of the High Commissioner for Human Rights (OHCHR).[5] JS1 and RSF recommended that the State should re-establish relations with the Office of the High Commissioner for Human Rights in the country.[6] JS8 made similar comments.[7]

4. Human Rights Watch (HRW) reported that in September 2016, the UN Human Rights Council adopted a resolution to establish a commission of inquiry into human rights violations in Burundi since April 2015, and to determine whether they may constitute international crimes. AI and HRW reported that Burundian officials have so far refused to

* The present document was not edited before being sent to United Nations translation services.

Please recycle

work with the commission.[8] HRW and JS2 recommended cooperating with the Human Rights Council-mandated Commission of Inquiry on Burundi and allow its members unhindered access to the country and relevant sites and people.[9]

5. AI and JS8 recommended ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and recognizing the competences of the Committee on Enforced Disappearances to receive and consider communication.[10]

6. JS1 deplored the refusal of the Government of Burundi to appear before the Committee against Torture during the special review of the situation in Burundi. The Committee drew the delegation's attention to the increase in acts of torture, according to multiple sources. It also expressed its concerns about a pre-genocidal situation and allegations of the use of rape as a method of punishment.[11] They recommended that anyone perpetrating acts of torture and any other human rights violations should be brought to justice and held accountable.[12] JS8 made similar comments.[13]

7. JS1 said that Burundi had extended a standing invitation to all the United Nations special procedures in 2013. However, in 2009 the Working Group on Enforced or Involuntary Disappearances had made a request to visit the country, and the request had been repeated four times since and remained unanswered. They recommended accepting the request of the Working Group on Enforced or Involuntary Disappearances in order to enable it to conduct an inquiry in the country.[14]

8. RSF recommended that the State should respond positively to requests for visits by United Nations special rapporteurs, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and on the situation of human rights in Burundi.[15]

9. Access Now (AccessNow) recommended issuing standing invitations to UN special procedures such as the UN special rapporteurs on the rights to freedom of expression and opinion, the right to and privacy.[16]

B. National human rights framework

10. AI indicated that although relatively recently adopted, both the 2009 Penal Code and 2013 Criminal Procedure Code were in the process of being revised at the time of writing, with draft laws tabled at the National Assembly. The proposed revisions to the Penal Code included measures against human trafficking, but also the criminalization of vagrancy and begging. Proposed revisions to the Criminal Procedure Code to allow night-time searches and searches without a warrant for "certain grave infractions" to be specified by law, as well as allowing searches of online or digital material, were very troubling. The government had justified introducing "new rules that derogate from the ordinary law of criminal procedure" due to "an evolution of criminality in Burundi". There was no indication that the derogations will be temporary.[17] AI recommended refraining from amending the Penal Code and Criminal Procedure Code to remove protections and allowing the National Independent Human Rights Commission to operate free from any political influence.[18]

11. AI reported that the Truth and Reconciliation Commission (TRC), mandated to investigate and establish the truth about serious violations of human rights and international humanitarian law committed between 1 July 1962 and 4 December 2008, began collecting testimonies in September 2016. While the 2000 Arusha Agreement provided for an international judicial commission of inquiry, the 2014 law establishing the TRC following years of negotiations does not provide for any judicial mechanism to bring to justice those responsible for crimes under international law and other serious violations of international human rights law.[19]

12. AHR reported that the 2005 Constitution of Burundi established the terms by which ethnic majority Hutus and minority Tutsis share power and recognized fundamental human rights for all Burundians.[20]

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross cutting issues

Equality and non-discrimination

13. HRW, JS2 and JS5 noted that Burundi criminalized consensual same-sex conduct for the first time in April 2009 and did not follow the recommendations made during the 2012 UPR to repeal these provisions. Further, they indicated article 567 of the penal code penalizes consensual same-sex sexual relations by adults with up to two years in prison.[21] HRW, JS2 and JS5 recommended decriminalizing consensual same-sex relations by revoking relevant articles of the Penal Code and removing discrimination on grounds of sexual orientation or gender identity from other laws and state policies, including Burundi's educational policy.[22]

14. JS1 said that the Government of Burundi had enacted a law punishing sexual and gender-based violence. However, it was not comprehensive and its silence on the rights of homosexuals and lesbians gave cause for concern. They recommended the introduction of support measures for the effective implementation of the law, such as the creation of a specialist police unit to deal with sexual and gender-based violence.[23]

15. JS8 said that violence against women in Burundi, already alarming, had worsened as a result of the crisis sweeping the country since April 2015. Although entire communities suffered the consequences of the armed conflict, women were disproportionately vulnerable to the violence because of their gender and their subordination to men. Violence against women included rape and other forms of sexual violence, domestic violence, torture, enforced disappearance, extrajudicial execution, trafficking and prostitution.[24] They recommended that the State should take effective measures to punish the perpetrators of these serious crimes and to protect Burundian women and girls from rape.[25]

2. Civil and political rights

Right to life, liberty and security of person

16. Front Line Defenders (FLD), JS1 and AI reported that human rights defenders have been subjected to violence, arbitrary detention, attempted killings and enforced disappearances.[26] HRW indicated that human rights activists reported several grenade attacks and killings believed to have been committed by armed opposition groups. Other armed opposition attacks appeared to be more targeted and covert.[27] AI, JS1 and FLD recommended preventing acts of harassment and violence against them.[28] FLD recommended combating impunity by ensuring the prompt, thorough and impartial investigation of all violations against human right defenders, the prosecution of perpetrators, and access to effective remedies for victims; and taking urgent measures to put an end to the killings, abductions and physical attacks.[29]

17. JS3 reported that the Burundi authorities harass and silence journalists by brining various charges against them for their journalistic activities. There have been also serious cases of a murder of a journalist and his family, members of the opposition and their staff, and one case of a disappearance of journalist. The harassment and prosecution of their peers has largely forced journalists into exile and self-censorship. It is estimated that over 100 journalists have fled the country and live in dire conditions abroad. They still live in fear since they are considered enemies of the State.[30] JS3 and FLD recommended Burundi to refrain from any attacks against journalists and other critics, seek the support and assistance of international and regional human rights experts and mechanisms to establish an independent body to conduct prompt, impartial and thorough investigations into crimes of violence against journalists.[31]

18. AI was gravely concerned that the authorities had failed to properly investigate and prosecute many cases of extra-judicial executions implicating state agents.[32] HRW and JS8 reported that the military and the police, assisted by *Imbonerakure*, committed at least 47 extra-judicial executions.[33] AI, HRW and JS8 recommended allowing independent

international and regional human rights investigators full and free access to investigate allegations of extrajudicial executions and mass grave sites; and immediately undertaking independent, effective and impartial investigations into allegations of extrajudicial executions and unlawful and excessive use of force by security forces; and where there was sufficient admissible evidence of criminal responsibility, prosecute those responsible.[14]

19. AI and JS1 reported the police's use of unlawful, excessive and lethal force in response to protests that began on 26 April 2015 and continued until mid-June, including by firing live bullets during demonstrations.[15] Further, even where children where present, police still failed to exercise restraint and used tear gas and live ammunition.[16] AI added that police units were also reported to be responsible for the murder of several political opponents or perceived opponents in the same period.[17]

20. JS1 said that detainees should be held only in legitimate detention facilities.[18] JS8 noted that places of detention were characterized by overcrowding and deplorable health conditions, including lack of access to medical care, which resulted in loss of life.[19] They recommended improving detention conditions.[20]

21. JS5 stated that there had been numerous cases of arbitrary arrest and illegal detention by police of members of the LGBTI community in Burundi. In some cases, the reason for their arrest was their sexual orientation and gender identity and/or expression.[21] JS5 recommended taking all necessary measures to effectively protect homosexuals from threats to their physical integrity and from discrimination of any kind.[22]

22. JS8 reported more than 150 cases of enforced disappearance.[23] AI and HRW expressed similar concerns, with OHCHR receiving more than 210 such allegations between October 2016 and January 2017.[24] JS8 recommended adopting concrete measures to assist the victims of enforced disappearance and their families; taking the necessary measures to ensure that all cases of enforced disappearance, including the cases mentioned by the Committee against Torture, were investigated thoroughly and impartially; and taking steps to ensure that the perpetrators of enforced disappearance could be held accountable.[25] AI recommended ensuring prompt, independent and effective investigations of all allegations of enforced disappearances and sharing all relevant findings with the families.[26]

23. AI reported that since the crisis began, there had been a marked increase in the perpetration of torture and other ill-treatment.[27] AI recommended allowing OHCHR, African Union and other independent monitors full, unimpeded and unannounced access to all places of detention; and suspending from duty members of security forces suspected of torture or other ill-treatment, and any officials who ordered or condoned such crimes, pending prompt, impartial and independent investigations, and where there is sufficient evidence prosecute those suspected of criminal responsibility in fair trials.[28]

24. JS8 said that Burundi had adopted a new Code of Criminal Procedure that provided for a compensation fund for victims of torture.[29] However, there were still obstacles in the way of the effective prevention and countering of acts of torture. They recommended taking the necessary steps to incorporate in the Military Criminal Code provisions criminalizing acts of torture and ill-treatment committed by military personnel, ensuring that such provisions were in conformity with the Convention.[30] JS1 recommended conducting effective investigations into all allegations of acts of torture and inhuman and degrading treatment in its detention centres.[31]

25. AHR also pointed out that as of October 5, 2016, the OHCHR had documented 558 cases of State-sponsored torture and mistreatment of individuals accused of participating in the 2015 attempted coup and subsequent events opposing the Government and the use of torture against political opposition members to extract information or as punishment has been a common practice of the Burundian Government.[32] JS8 made similar comments.[33] AHR recommended establishing an independent mechanism for investigating complaints of torture or ill-treatment at the hands of members of police or security forces ensuring that law enforcement officials continue to receive investigative training in accordance with the Istanbul Protocol.[34]

26. AI and HRW reported that thousands of people were arrested in relation to the 2015 protests. While in detention, many were denied access to their families or lawyers.[35] AI

recommended stopping arbitrary arrests and ensuring that all detainees have access to lawyers and family.[56]

Administration of justice, including impunity and the rule of law

27. JS1 said that, in its last report to the Human Rights Council under the universal periodic review, the Government of Burundi had made a commitment to judicial reform, and accepted recommendations on that point, with a view to strengthening the judicial system and making it more accessible, independent, accountable, effective, gender-sensitive and able to guarantee respect for human rights. However, those statements of intent had not been translated into reality because most of the reforms had yet to be fully implemented. Consequently, impunity continued to spread, according to allegations of torture and extrajudicial killings. In general, human rights violations, particularly those committed by law enforcement officials, passed without proper investigation or prosecution. They recommended taking steps to ensure appropriate investigation, trial and punishment for all those responsible for extrajudicial executions.[57] JS8 made similar comments.[58]

28. AHR reported that Burundi was blatantly failing to meet its obligations to promptly, thoroughly, and impartially investigated and prosecuted human rights violations. The slow and reluctant response of police and the judiciary to investigate and prosecute human rights abuses had led to the widespread perception of impunity for government agents and party officials. The Government of Burundi also failed to protect witnesses to criminal activity or acts of violence perpetrated on behalf of the Government.[59]

Fundamental freedoms and the right to participate in public and political life

29. JS1, JS2 and AI said that, since 2015, freedom of expression had been stifled at all levels of society.[60] In addition, many Burundian and international journalists had been subjected to persecution. They recommended not threatening media organizations or intimidating them by enforcing laws that were contrary to the Constitution and international law.[61] RSF recommended putting an end to censorship and to all acts of reprisal and harassment against the information sector and halting public attacks on the media by political authorities.[62] JS8 recommended ensuring that all citizens, including opposition political parties and independent civil society actors, were treated appropriately and fairly in respect of the right to demonstrate or hold public meetings.[63]

30. RSF had identified at least 90 journalists in exile, with no income, no work, no security, and in many cases no possibility of returning.[64] RSF recommended putting a stop to abuses against the media in exile, prosecuting the perpetrators of illegal acts of that kind and preventing further violations, and undertaking to allow the safe return of Burundian journalists now in exile.[65] HRW made similar recommendations.[66]

31. JS5 said that the freedom of assembly was one of the rights that was still not guaranteed to the LGBT community in Burundi. The activities of homosexual persons were continually impeded by the security forces and local authorities. They recommended taking all necessary measures to guarantee complete freedom of assembly and expression without discrimination.[67]

32. FLD and AI expressed concern about the dozens of human rights defenders who have been forced to flee the country following the unrest in 2015, with many still remaining in exile. A number of these defenders reported receiving death threats prior to leaving the country.[68] FLD recommended recognising the positive and legitimate role played by human rights defenders in Burundi and create an environment where human rights defenders and journalists in exile are able to return to the country.[69] AHR recommended that taking the necessary steps to ensure that legal systems and policies were in full compliance with Burundi's international obligations with respect to freedom of expression and ensuring that journalists and human rights defenders were free to carry out their work independently and without fear of persecution or intimidation.[70]

33. Access Now (AccessNow) reported that blocking popular and affordable communications services, and surveillance and jailing prominent internet personalities, interferes with the human right to free expression.[71] AccessNow recommended committing to enhancing freedom of expression online and preventing violations by state and non-state

actors, such as companies and committing to increasing access to and use of digital information and communications technologies.[72]

34. JS3 indicated that in the past 5 years, the government had increasingly restricted and, in some cases banned entirely, the exercise of association and assembly rights.[73] JS3 recommended that fully respecting and protecting the right to freedom of assembly and association.[74] AI reported that the 2013 Law on Public Gatherings places impermissible restrictions on the right to freedom of peaceful assembly.[75] AI recommended amending the Law on Public Gatherings to remove impermissible restrictions on assemblies and allowing political parties and civil society to organise meetings without unnecessary interference.[76]

35. JS3 reported that there was no independent media regulator in Burundi. The media regulatory body, National Communications Council (Conseil National de la Communication, "the Council") — a statutory body created under chapter 5 of the Constitution — failed to meet the international standards on media regulator independence: it was appointed by the President and controlled by the Minister of Information. It had broad powers to regulate all media, accredit journalists, oversee issues of media ethics as well as media law, impose sanctions and arbitrate, and powers to appoint or terminate its members.[77] JS3 recommended establishing an independent regulator for broadcast media in accordance with international and regional freedom of expression standards.[78]

36. FLD and JS2 indicated that since the beginning of the political crisis in 2015, Burundian authorities had resorted to draconian measures to halt the monitoring of human rights violations in the country, including the freezing of assets belonging to NGOs or individual human rights defenders; as well as the suspension and dissolution of a number of human rights organisations.[79] FLD recommended repealing or amending any legislation used to limit the legitimate work of NGOs and human rights defenders with a view to ensure its compliance with international human rights standards, in particular the Media Law 2013 and the 2017 law concerning non-profit organisations.[80] Furthermore, RSF noted that NGOs were gradually being banned and those that persisted found their work hampered by a restrictive legal regime.[81] RSF recommended renewing the authorization for Burundian human rights NGOs on its territory.[82]

37. ADF International reported that in 2015 religious communities came under pressure as a result of controversy surrounding Pierre Nkurunziza, deciding to run for a third-term in the office. It recommended ensuring the protection and promotion of freedom of religion, and eradicating any and all illegitimate limitations or restrictions on the freedom of expression of religious individuals or communities.[83]

Prohibition of all forms of slavery

38. The Observatoire de Lutte contre la corruption et les Malversations économiques (OLUCOME) reported trafficking in Burundian girls and women in Oman, Saudi Arabia, Lebanon and Kuwait, in violation of the Constitution and international treaties signed by Burundi prohibiting such trade, which had its basis in corruption.[84] OLUCOME also underlined that corruption had become a mode of government in Burundi and that the weakness of State institutions held up efforts to eradicate the illegal trade in human beings. Corruption and the weakness of institutions translated into impunity for serious crimes of this kind, which was a significant contributing factor in the spread of this illegal trade in Burundi.[85]

Right to privacy and family life

39. AccessNow indicated that despite its progressive Constitutional protection of privacy in communications, Burundi did not yet have a data protection regulation.[86] AccessNow recommended that passing data protection legislation, after robust and inclusive public consultation and drafting to ensure compatibility with the human right to privacy, the AU Convention, and the Burundi Constitution.[87]

3. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

40. OLUCOME reported the systematic violation by the Government of Burundi of the socioeconomic rights of vulnerable groups, particularly the rights of women, young people and men engaged in street vending. OLUCOME reported ill-treatment suffered by itinerant traders in the course of their work: in some cases they were hounded, abused, whipped or imprisoned, in others their merchandise was confiscated or simply disappeared. [89] OLUCOME said that the State should guarantee the right to free choice of occupation, as set forth in the Universal Declaration of Human Rights, article 23, and in the International Covenant on Economic, Social and Cultural Rights, article 6, as ratified by Burundi.[90]

41. JS7 reported that a considerable number of women are deprived of their right to work if and when these women do work, they are assigned more menial tasks. Lack of regulation of forced marriages, child marriages, and polygamy, which deprive a girl of the freedom of choosing a spouse, obviate the socio-economic opportunities of women and pose significant problems for them.[91]

Right to an adequate standard of living

42. OLUCOME reported that the extent of food insecurity was alarming: Burundi had ranked last in the 2013 global hunger index. Nearly one household in two (approximately 4.6 million people) suffered from food insecurity, and more than half the children suffered growth retardation. Burundi, as a State party to the International Covenant on Economic, Social and Cultural Rights, should recognize the right of everyone to an adequate standard of living for himself and his family.[92]

Right to health

43. JS5 reported that significant advances had been noted since 2007 in the area of HIV prevention for men who had sex with men. Sexual minorities had been included in the 2012-2016 strategic plan to combat AIDS, as a high-risk vulnerable group. Despite all these advances, there were still cases of discrimination and stigmatization, both in care institutions and on the part of the administrative authorities. They recommended taking all necessary measures to guarantee LGBT persons effective access to health care, without discrimination.[93]

44. ADF International reported that Burundi's maternal mortality ratio (MMR) in 2015 was 712 maternal deaths per 100,000 live births. This is down from 1220 per 100,000 in 1990 but is nevertheless one of the highest rates of maternal mortality in the world.[93] ADF International recommended improving health care infrastructure, access to emergency obstetric care, midwife training, and resources devoted to maternal health; and focusing on safely getting mothers and babies through pregnancy and childbirth, with special attention paid to improving health-care access for women from poor and/or rural backgrounds.[94]

45. JS7 reported that promiscuity in the Muslim communities, commonly known as "Swahili Quarters," poses a disadvantage to Muslims because it causes early and unwanted pregnancies. This situation is due to poor education in sexual and reproductive health, as a result of the position of Muslim leaders against contraception, and the prevalence of early and forced marriages, and cases of polygamy. These factors contribute to impede women's socio-economic autonomy. In addition, Muslim women are discouraged from seeing male doctors and, therefore, often cannot access basic health care, especially when they are pregnant.[95] JS7 recommended contributing directly to healthcare for women and children by building facilities for sexual and reproductive healthcare.[96]

46. JS7 added that the fertility rate of women is extremely high (> 6.1 according to some surveys) forcing Muslim women to care only for children and the home. As a result, women are driven into misery and poverty, which strengthens her dependence on her husband's power.[97]

Right to education

47. JS5 reported that the literacy rate was relatively very low in the LGBT community, with many young LGBTI persons dropping out of school. This was the result of the discrimination and violence that they faced from peers and teachers in school on a daily basis.[98]

48. JS7 reported that a significant number of imams promulgate misogynistic narratives of Islamic texts regarding the status of women, counselling their congregations to cease sending their daughters to school and to have their daughters marry at a precocious age as to preserve honour.[99] JS7 recommended contributing directly to education for women and children by constructing model schools to accommodate both girls and boys; and providing instruction and resources to educate Burundian women of their rights so that they can engage in defending them.[100]

4. Rights of specific persons or groups

Women

49. JS4 noted that according to the Burundian Nationality Code of 2000, Burundian women cannot pass nationality to children born inside or outside the country on an equal basis with Burundian men and article 2 of the 2000 Nationality Code does not allow mothers to transfer nationality to children except when maternal filiation is established when they are born out of wedlock to unknown fathers or if disowned by their fathers.[101] JS4 recommended amending the 2000 Nationality Code to bring it into full compliance with Burundi's 2005 Constitution and relevant provisions of CEDAW and the CRC, taking steps to ensure that all children and adults who have been denied access to Burundian citizenship are granted nationality and acceding to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness to ensure every child with a nationality.[102]

50. HRW reported that members of the *Imbonerakure* and police, sometimes armed with guns, sticks or knives, raped women whose male family members were perceived government opponents. In some cases, *Imbonerakure* threatened or attacked the male relative before raping the woman.[103]

Children

51. Global Initiative to End All Corporal Punishment of Children (GIEACPC) reported that corporal punishment in Burundi is unlawful as a sentence for a crime and possibly in schools. It is lawful in the home, in alternative care and day care settings, and in penal institutions.[104] GIEACPC indicated that the Human Rights Committee (HRC) recommended that Burundi take legislative measures to put an end to corporal punishment in all settings in 2014 and the Committee on Economic, Social and Cultural Rights (CESCR) expressed concern at the legality of corporal punishment in Burundi and recommended its prohibition in all settings including the family in 2015.[105]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil society

Individual submissions:

AccessNow	Access Now, New York, (United States of America);
ADF International	ADF International, Geneva, (Switzerland);
AHR	Advocates for Human Rights, Minneapolis, (United States of America);
AI	Amnesty International, London (United Kingdom);

FLD	Front Line Defenders - The International Foundation for the Protection of Human Rights Defenders, Blackrock, county Dublin, Ireland;
GIEACPC	Global Initiative to End All Corporal Punishment of Children, London, United Kingdom of Great Britain and Northern Ireland;
HRW	Human Rights Watch, Geneva, Switzerland;
OLUCOME	Observatoire de Lutte contre la corruption et les Malversations Economiques, BUJUMBURA, Burundi;
RSF-RWB	Reporters Without Borders International, Paris, France

Joint submissions:

JS1	**Joint submission 1 submitted by**: Contra Nocendi International Action, Solidaire Pour Le Developpement Communautaire (ASODECOM) Association Communautaire Pour la Promotion et la Protection des Droits De L'Hommes (ACPDH), Paris, France;
JS2	**Joint submission 2 submitted by**: International Service for Human Rights, Action des Chrétiens pour l'Abolition de la Torture (ACAT-Burundi), Geneva, Switzerland;
JS3	**Joint submission 3 submitted by**: ARTICLE 19, the Collaboration on ICT Policy in East and Southern Africa (CIPESA), the East Africa Law Society, the Pan African Lawyers Union (PALU), and the East and Horn of Africa Human Rights Defenders Project (Defend Defenders), London, United Kingdom of Great Britain and Northern Ireland;
JS4	**Joint submission 4 submitted by**: Institute on Statelessness and Inclusion, Association Des Femmes Juristes du Burundi, Global Campaign for Equal Nationality Rights, Eindhoven, Netherlands;
JS5	**Joint submission 5 submitted by**: MOLIBURUNDI, RAINBOW CANDLE RIGHTS TRANSGENDER IN ACTION MOLI, Bujumbura, Burundi;
JS6	**Joint submission 6 submitted by**: CIVICUS, Defend Defenders, APRODH, Ligue ITEKA, FIDH, Johannesburg, South Africa;
JS7	**Joint submission 7 submitted by**: Muslims for Progressive Values, Alliance des Imams du Corridors Nords pour le Developpement Humanitaire (AICNDH), Los Angeles, United States of America;
JS8	**Joint submission 8 submitted by**: Fédération Internationale de l'Action des Chrétiens pour l'Abolition de la Torture, ACAT Burundi, APRODH, CAVIB, CB-CPI, COSOME, FORSC, FOCODE, Ligue ITEKA, RCP, SOS-TORTURE/ BURUNDI, UBJ, CCPR CENTRE, OMCT, Paris, France

[2] The following abbreviations are used in UPR documents:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination;
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR;
ICCPR	International Covenant on Civil and Political Rights;
ICCPR-OP 1	Optional Protocol to ICCPR;
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty;
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women;
OP-CEDAW	Optional Protocol to CEDAW;
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CAT	Optional Protocol to CAT;
CRC	Convention on the Rights of the Child;

OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict;
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography;
OP-CRC-IC	Optional Protocol to CRC on a communications procedure;
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
CRPD	Convention on the Rights of Persons with Disabilities;
OP-CRPD	Optional Protocol to CRPD;
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance.

[3] AI, p. 1 and AHR, p.1, para. 3.
[4] AI, p. 1.
[5] AI, p. 2, AHR, p. 3, para. 12, RSF, p.2, JS3, p.4, para. 2.2.
[6] JS1, p. 6, RSF, p. 8.
[7] JS8, p. 3, para. 6.
[8] HRW, p. 7, para. 8, AI, p. 2.
[9] HRW, p. 7, para.8, JS2, p. 4.
[10] AI, p. 7, JS8, p. 8, para. 19.
[11] JS1, p. 5, para. 2.3.
[12] JS1, p. 6.
[13] JS8, p. 2, para. 5.
[14] JS1, p. 5, para. 2.4.
[15] RSF, p. 8.
[16] Acces Now, para. 21 (f).
[17] AI, p. 2.
[18] AI, p. 6.
[19] AI, p.2.
[20] AHR, p. 3, para. 13.
[21] HRW, p. 6, para. 7, JS2, p. 3, para. C, JS5, para. 1.
[22] HRW, p. 7, para. 7, JS2, p. 4, JS5, p. 9.
[23] JS1, pp. 8-9, para. 6.
[24] JS8, p. 12, para. 39.
[25] JS8, p. 14, para. 45.
[26] FLD, p. 1, para. 7, AI, p. 4, JS1, p. 8, para. 5.
[27] HRW, p. 5, para. 5.
[28] AI, p. 7, JS1, p.8, para. 5.
[29] FLD, p. 4, para. 26 (d) and (e).
[30] JS3, p. 3-4, paras. 10 and 11. See also FLD, para. 12.
[31] JS3, p. 8, para. 27, FLD, p. 4, para. 26 (d).
[32] AI, p. 3.
[33] HRW, p. 2, para. 1, JS8, p.8, para. 21.
[34] AI, p. 6, HRW, p. 3, JS8, p. 9, para. 22.
[35] AI, p. 3, JS1, pp. 6-7, para. 3.
[36] AI, p. 6.
[37] AI, p. 3.
[38] JS1, pp. 7-8, para. 4.
[39] JS8, p. 6, para. 11.
[40] JS8, p. 7, para. 14.
[41] JS5, para. 1.
[42] JS5, p. 9.
[43] JS8, p. 7, para. 15, AI, p. 4 and HRW, p. 3, para. 2.
[44] AI, p. 4, HRW, p. 3.
[45] JS8, p. 8, para. 19.
[46] AI, p. 6, 7.
[47] AI, p. 4.
[48] AI, p. 7.
[49] JS8, p. 4, para. 8.
[50] JS8, p. 6, para. 14.
[51] JS1, p. 7, para. 4.
[52] AHR, p. 5, paras. 23, 24.
[53] JS8, p. 5, para. 9.
[54] AHR, p. 7, para. 31.

[55] AI, p. 4 and HRW, p. 4, para. 4.
[56] AI, p. 7.
[57] JS1, pp. 10-11, para. 8.
[58] JS8, p. 9, para. 25.
[59] AHR, p. 6, paras. 26, 27.
[60] AI, p. 5; JS1, p. 9, para. 7; JS2, p. 2.
[61] JS1, p. 9, para. 7.
[62] RSF, p. 7.
[63] JS8, p. 11, para. 36.
[64] RSF, p. 6.
[65] RSF, p. 7.
[66] HRW, p. 6.
[67] JS5, para. 4.
[68] FLD, p. 4, para. 25; AI, p. 5.
[69] FLD, p. 4, para. 26 (b).
[70] AHR, p. 7, para. 31.
[71] AccessNow, p. 3, paras. 17, 18.
[72] AccessNow, p. 4, para. 21d, 21e.
[73] JS3, p. 6, para. 20.
[74] JS3, p. 8, para. 27.
[75] AI, p. 6.
[76] AI, p. 7.
[77] JS3, p. 5, para. 14.
[78] JS3, p. 8, para. 27.
[79] FLD, p. 3, para. 18; JS2, p. 3.
[80] FLD, p. 5, para. 26f.
[81] RSF, p. 2.
[82] RSF, p. 7.
[83] ADF International, paras. 23 and 28 (f).
[84] OLUCOME, p. 3, para. 4.
[85] OLUCOME, p. 4, para. 6; See also JS8, p.5.
[86] AccessNow, p. 2, para. 13.
[87] AccessNow, p. 4, para. 21c.
[88] OLUCOME, para. 1.
[89] OLUCOME, para. 1.
[90] JS7, p. 7, paras. V and VI.
[91] OLUCOME, p. 2, para. 2.
[92] JS5, para. 3.
[93] ADF International, para. 16.
[94] ADF International, para. 28 (d) and (e).
[95] JS7, p. 7, para. VII.
[96] JS7, p. 8, para. III.
[97] JS7, p. 7, para. VIII.
[98] JS5, para. 2.
[99] JS7, p. 5.
[100] JS7, p. 8, paras. II and V.
[101] JS4, p. 4, para. 13.
[102] JS4, p. 6, paras. I, II, III.
[103] HRW, p. 4 para. 3.
[104] GIEACPC, p. 2, para. 2.
[105] GIEACPC, p. 3, paras. 3.2, 3.4.